

REMARKS

Claims 1-15 are pending in this application, in which Claims 12-15 were withdrawn as being directed to a non-elected invention. The Examiner rejected Claims 1-11 under 35 U.S.C. 112, first paragraph, and 35 U.S.C. 112, second paragraph. Claims 1-11 have been amended in the foregoing amendment.

Claims 1-11 are Definite

The Examiner rejected Claims 1-11 under 35 U.S.C. 112, second paragraph, as being indefinite. In particular, the Examiner indicated that Claims 1-11 fail to set forth the basis upon which the percentages set forth are expressed, e.g. mole%, weight%, volume%. Applicant amended Claims 1-11 to clarify that the basis upon which the percentages set forth are expressed is percentage in weight. For example, page 27, line 12 of the specification describes the numerical values being expressed by "mass %". A person skilled in the art would understand that the unit of "mass %" is equivalent to "weight %". Accordingly, Claims 1-11 should now be definite.

Rejection under 35 U.S.C. 112, First Paragraph

The Examiner rejected Claims 1-11 under 35 U.S.C. 112, first paragraph as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or which it is most nearly connected, to make and/or use the invention. In particular, the Examiner indicated that the instant claims recite ingredients the maximum amount of which do not add up to 100%.

The Examiner further indicated that there is no disclosure of structure of the coating material after incineration that is the subject of the instant claims, that there is no disclosure of the temperature or other conditions at which the incineration is to take place, that one of ordinary skill in the art is not taught how to formulate the starting materials, incinerate the composition to obtain the material of the instant claims or properly perform the analysis of the incinerated material with a reasonable expectation of success, and that the instant Claims

1-5, 10 and 11 are not limited to the material in an incinerated state as required by the instant specification.

It is submitted that as is well known in the art, the lightest element that can be analyzed by X-ray fluorescence (XRF) spectrometer is beryllium ($Z=4$). However, due to instrument limitations and low x-ray yields for light elements, it is difficult to quantify elements lighter than sodium ($Z=11$) by XRF spectrometer. *See e.g.* "X-ray Fluorescence", attached hereto and available at http://en.wikipedia.org/wiki/X-ray_fluorescence. Thus, one skilled in the art would understand that it is not feasible to recite ingredients that total 100%. In addition, the claim recites the required amounts of certain elements. Additional elements are possible.

Applicant amended Claim 1 to clarify the temperatures and other conditions at which the incineration is to take place and how to formulate the starting materials, and to recite that the material is in an incinerated state. Claims 2-11 depend from independent Claim 1. Accordingly, Claims 1-11 now recites enabling subject matter.

CONCLUSION

The foregoing is submitted as a complete response to the Office Action identified above. This application should now be in condition for allowance, and the Applicants solicit a notice to that effect. If there are any issues that can be addressed via telephone, the Examiner is asked to contact the undersigned at 404.685.6799.

Appln. No. Serial No. 10/805,745

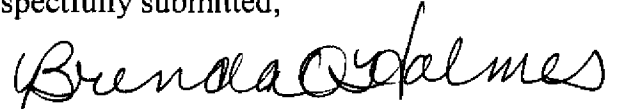
Amdt. Dated 6/22/06

First Amendment and Response in Appln, Reply to Office Action of 2/22/2006

Page 12 of 12

No fee is believed to be due. If a fee is due, the Commissioner is authorized to charge such fee and any additional fees that may be due or credit any overpayment to Deposit Account No. 11-0855.

Respectfully submitted,

A handwritten signature in black ink that reads "Brenda O. Holmes". The signature is written in a cursive, flowing style.

By: Brenda O. Holmes

Reg. No. 40,339

KILPATRICK STOCKTON LLP

1100 Peachtree Street, Suite 2800

Atlanta, Georgia 30309-4530

Telephone: (404) 815-6500; Facsimile: (404) 815-6555